

EXHIBIT

3

UNITED STATES OF AMERICA
FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

NATIONAL CREDIT SYSTEMS, INC.))
)	2022-MISC-National Credit Systems, Inc.-0001
)	
)	

**DECISION AND ORDER ON PETITION BY NATIONAL CREDIT SYSTEMS, INC. TO
SET ASIDE CIVIL INVESTIGATIVE DEMAND**

National Credit Systems, Inc. has petitioned the Consumer Financial Protection Bureau for an order setting aside a civil investigative demand (“CID”) issued to it. For the reasons set forth below, the petition is **DENIED**.

I. BACKGROUND

The Consumer Financial Protection Bureau (“Bureau”) served National Credit Systems, Inc. with a CID, dated October 18, 2022, requiring answers to interrogatories, the submission of written reports, and the production of documents. National Credit Systems then timely petitioned to set aside the CID on November 9, 2022.

II. LEGAL DETERMINATION

National Credit Systems argues that this CID must be set aside because the Bureau’s “funding mechanism” is unconstitutional and that, as a result, the Bureau lacks authority to issue the CID.¹ Petition (“Pet.”) at 3-5.

¹ This petition’s “Factual Introduction” section mentions in passing that, during the meet-and-confer, Petitioner and Enforcement staff did not reach agreement regarding what Petitioner terms “the inadequate Notification of Purpose.” Pet. at 3. The petition says nothing more about the notification of purpose. Because no argument is presented in the petition on the adequacy of the

The Bureau has consistently taken the position that the administrative process set out in the Bureau's statute and regulations for petitioning to modify or set aside a CID is not the proper forum for raising and adjudicating challenges to the constitutionality of the Bureau's statute. *See, e.g.*, *Crystal G. Moroney*, 2021-MISC-Law Offices of Crystal Moroney, P.C. (Crystal G. Moroney)-0001 (Dec. 13, 2021),² at 4-5; *In Re Law Offices of Crystal Moroney, P.C.*, 2019-MISC-Law Offices of Crystal Moroney, P.C.-0001 (Feb. 10, 2020),³ at 2-3; *In re Equitable Acceptance Corp.*, 2019-MISC-Equitable Acceptance Corp.-0001 (Dec. 26, 2019),⁴ at 2; *In re Kern-Fuller and Sutter*, 2019-MISC-Candy Kern-Fuller and Howard E. Sutter III-0001 (Apr. 25, 2019),⁵ at 2; *In re Nexus Servs., Inc.*, 2017-MISC-Nexus Services, Inc. and Libre by Nexus, Inc.-0001 (Oct. 11, 2017),⁶ at 2; *see also, e.g.*, *United Space All., LLC v. Solis*, 824 F. Supp. 2d 68, 97 n.10 (D.D.C. 2011) ("[G]overnment agencies may not entertain a constitutional challenge to authorizing statutes." (quotations omitted)). I therefore decline to set aside the CID on constitutional grounds. In the event that the Bureau determines at a later date that it is necessary to seek a court order compelling National Credit Systems to comply with this CID, *see* 12 U.S.C. § 5562(e), National Credit Systems can raise any constitutional argument as a defense to that proceeding in district court.

notification of purpose in this CID, that issue is waived. In any event, the notification of purpose in this CID satisfies the statutory requirements set out in 12 U.S.C. § 5562(c)(2).

² Available at https://files.consumerfinance.gov/f/documents/cfpb_crystal-g-moroney_decision-and-order_2022-06.pdf.

³ Available at https://files.consumerfinance.gov/f/documents/cfpb_law-offices-crystal-moroney_decision-and-order-on-petition.pdf.

⁴ Available at https://files.consumerfinance.gov/f/documents/cfpb_equitable-acceptance-corp_decision-and-order-on-petition.pdf.

⁵ Available at https://files.consumerfinance.gov/f/documents/cfpb_petition-to-modify_candy-kern-fuller-and-howard-e-sutter_decision-and-order.pdf.

⁶ Available at https://files.consumerfinance.gov/f/documents/cfpb_petition-to-modify_nexus_decision-and-order.pdf.

III. CONCLUSION

For the foregoing reasons, the petition to set aside the CID is **DENIED**. National Credit Systems has asked that, if this petition is denied, it be given 21 days from the date of the order to respond to the CID. That request is **GRANTED**. National Credit Systems is directed to comply in full with this CID within 21 days from the date this Order is served by email on counsel for National Credit Systems. National Credit Systems is welcome to engage in discussions with Bureau staff about another date for compliance that may be acceptable to the Assistant Director or Deputy Assistant Director of the Office of Enforcement.

IT IS SO ORDERED. Dated: December 20, 2022

Rohit Chopra
Rohit Chopra
Director